

SERVICE DATE – AUGUST 1, 2008

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB-33 (Sub-No. 269X)
Union Pacific Railroad Company – Abandonment Exemption – in Osborne and Rooks
Counties, KS

&

STB Docket No. AB-486 (Sub-No. 4X)
Kyle Railroad Company – Discontinuance of Service Exemption – in Osborne and Rooks
Counties, KS

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) and Kyle Railroad Company (Kyle) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with UP's abandonment of and Kyle's discontinuance of service over a line of railroad in Osborne and Rooks Counties, Kansas. The rail line proposed for abandonment extends 30.13 miles from milepost 550.5 west of Osborne, Kansas to milepost 580.63 west of Stockton, Kansas, at the end of the line (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

UP and Kyle (the Applicants) submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The Applicants served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)]. The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to the Applicants, there are no local shippers on the Line and there has been no freight service on the Line since May 24, 2005, at which time the Line was embargoed due to track condition. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities;

transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and re-grading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

In this specific abandonment, UP will salvage the track materials and not disturb any underlying roadbed. In consultation with the Kansas State Historic Preservation Officer (SHPO), UP has agreed that no historic trestles will be removed. The Applicants are confident that the proposed abandonment and discontinuance of service will be consistent with applicable water quality standards. UP plans to conduct salvage activities by using the existing right-of-way for access, along with existing public and private road crossings, and no new access roads are contemplated. According to UP, salvage activities would not cause sedimentation or erosion of the soil, and UP does not anticipate any dredging or use of fill when removing the track material. UP states that no debris would be discarded along the right-of-way and any work along the right-of-way would be subject to appropriate measures to prevent or control spills from fuels, lubricants or any other pollutant materials.

The Applicants have contacted the US Environmental Protection Agency (USEPA) and they responded that “no regulatory or remedial activity was found to be within the rail line’s alignment that should influence the abandonment proposal.” They also stated that all EPA Region 7 states have primacy for the Clean Water Act Section 402 and that the Applicants should contact the Kansas Department of Health and Environment (KDH) concerning related requirements.

The KDH was served a copy of the Environmental and Historic Report by the Applicants. To date, no comments have been received from KDH.

According to the Applicants, the land adjoining the Line is mainly rural in character. The Applicants consider the proposed abandonment and discontinuance of service to be consistent with existing land use plans. No comments have been received from the County Commissioner’s of Osborne and Rooks Counties relative to the proposed abandonment or current land use plan for the areas the right-of-way traverses.

The Applicants believe that no permits under Section 404 will be required or that any designated wetlands or 100-year flood plains will be affected. The Applicants contacted the U.S. Army Corp of Engineers (Corp). To date, the Corp has not commented on the proposed abandonment.

The U.S. Fish and Wildlife Service (USFWS) was served a copy of the Environmental and Historic Report by the Applicants. USFWS responded that it has no concerns or comments on the proposed abandonment.

The Natural Resources Conservation Service (NRCS) was served a copy of the Environmental and Historic Report by the Applicants. The NRCS responded that it found no misleading, incorrect, or missing information within the reports and it has no questions related to the proposal.

SEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment. Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts.

HISTORIC REVIEW

The Applicants served the historic report on the Kansas State Historic Preservation Officer (SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has submitted comments stating that the rail line and associated track are not eligible for listing in the National Register and that the project may proceed. The SHPO's comments are with the understanding that no historic trestles will be removed. The Applicants state that they will comply with this understanding.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the Section 106 process of the National Historic Preservation Act at 36 CFR 800.5(c) and 36 CFR 800.8, we have determined that the proposed abandonment will not adversely affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

SEA conducted a search of the Native American Consultation Database at <http://www.cr.nps.gov/nacd/> to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following Federally recognized tribe may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment: the Pawnee Nation of Oklahoma. Accordingly, SEA is sending a copy of this EA to that tribe for review and comment.

CONDITIONS

SEA recommends that no environmental conditions be placed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of **Alan L. Cassidy**, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-33 (Sub-No. 269X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Alan L. Cassidy,

the environmental contact for this case, by phone at (202) 245-0308, fax at (202) 245-0454, or e-mail at alan.cassiday@stb.dot.gov.

Date made available to the public: August 1, 2008.

Comment due date: August 15, 2008.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan
Acting Secretary

Attachment